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09/804,679	03/12/2001	Geoffrey B. Rhoads	P0329	1863

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EXAMINER	
RAMAN, USHA	

ART UNIT	PAPER NUMBER
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/804,679
Filing Date: March 12, 2001
Appellant(s): RHOADS, GEOFFREY B.

William Conwell
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 1st, 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-9 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,956,716	Kenner et al.	9-1999
5,822,432	Moskowitz et al.	10-1998

6,101,602 Fridrich 8-2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Kenner et al (US Pat. 5,956,716).

In regards to claim 1, Kenner discloses a method for Internet distribution of video comprising (see abstract):

Displaying to a consumer a listing of video titles (see column 23, lines 12-17);

Receiving a signal indicative of a video title selected by the user (see column 23, lines 20-24 and column 24, lines 15-18);

Exchanging a fee (see column 27, lines 28-30, column 33, lines 65-67, column 34, lines 1-5);

Watermarking the video on the fly (see column 25, lines 64-67, column 26, lines 10-16);

Transmitting the video to the consumer (see column 25, lines 13-26);

In regards to claim 2, Kenner discloses watermarking the video with an identifier of the consumer (see column 25, lines 64-67). Therefore Kenner discloses the step of watermarking the video with at least one data from the list consisting of: an identifier of the date, an identifier of an internet site from which the selected video is provided, an identifier of the consumer and an identifier of an internet address to which the selected video is transmitted.

Claim Rejections - 35 USC § 103

3. Claims 3-4, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (US Pat 5,956,716) in view of Moskowitz et al. (US Pat. 5,822,432).

In regards to claims 3, and 7, Kenner is silent about watermarking the video with an identifier of an Internet sit from which the selected video is provided.

Moskowitz discloses the step of watermarking media contents with an identifier of a site from which the selected video is provided (an identification a seller account, a digital notary; see column 9, lines 1-2, line 11, lines 40-49). Moskowitz further discloses the step of watermarking an Internet site address identifying the content maybe obtained at (see column 9, lines 29-32, 37-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kenner with teachings of Moskowitz by watermarking the URL of the content provider as the seller account identification.

The motivation is to embed information in the content for identifying the Internet site from which the content was obtained.

In further regards to claims 3, the modified system comprises the step of watermarking the content with an identifier of the consumer and an identifier of an Internet site from which the content was obtained, thereby watermarking the content with at least two data from said list.

In regards to claim 4, Kenner addresses the requested video clip with the Internet address of the requester for transmission (see column 25, lines 23-26). However, Kenner is silent about watermarking the content with an identifier of the Internet address to which the selected video is transmitted.

Moskowitz discloses the step of watermarking the content with a URL as well as a purchaser's identification. See column 9, line 10, lines 29-32, and lines 37-40. Additionally, Moskowitz also discloses the step of watermarking media contents with an identifier of a site from which the selected video is provided (an identification a seller account, a digital notary; see column 9, lines 1-2, line 11, lines 40-49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kenner with Moskowitz's teachings by watermarking the content with the Internet address of the requester and watermarking the URL of the content provider as the seller account identification. The motivation is to embed information in the video for identifying the Internet

site from which the content was obtained and the Internet address to which the content is delivered.

In regards to claim 9, Kenner addresses the requested video clip with the Internet address of the requester for transmission (see column 25, lines 23-26). However, Kenner is silent about watermarking the content with an identifier of the Internet address to which the selected video is transmitted.

Moskowitz discloses the step of watermarking a content with a URL as well as a purchaser's identification. See column 9, line 10, and lines 37-40.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kenner with Moskowitz's teachings by watermarking the content with the Internet address of the requester. The motivation is to embed information in the content for identifying the Internet address to which the content is delivered.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (US Pat. 5,956,716) in view of Fridrich (US Pat. 6,101,602).

In regards to claim 6, Kenner lacks the method of watermarking the video with an identifier of the date.

Fridrich discloses watermarking a media content with optional data such as a time and date identifier in addition to identifiers identifying the content itself. Note column 7, lines 5-8.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kenner in view of Fridrich's teaching by

watermarking a media content with a date identifier. The motivation would be to provide means of identifying the date a purchase transaction was processed.

5. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (US Pat 5,956,716) in view of Moskowitz et al. (US Pat. 5,822,432) as applied to claim 4 above, and further in view of Fridrich (US Pat. 6,101,602).

In regards to claim 5, as discussed above for claim 4, the modified system Kenner in view of Moskowitz has the method of watermarking the video with three data recited in the list. The modified system however lacks the method of watermarking the video with the fourth data from the list (namely identifier of the date).

Fridrich discloses watermarking a content with optional data such as a time and date identifier in addition to identifiers identifying the content itself. Note column 7, lines 5-8.

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system of Kenner in view of Moskowitz with Fridrich's teaching of watermarking a content with a date identifier. The motivation is to provide means of identifying the date a purchase transaction was processed and use that in conjunction with other watermark data to track down copyright violators.

(11) Response to Argument

6. Appellant argues in pages 6-7 that, "in Kenner's arrangement, charges for the video delivery are accrued and later billed" and therefore does not anticipate the

"exchanging of fee", as recited in claim 1. The "exchanging of fee" is merely an agreement for a financial exchange when purchasing services and items. For example when a user purchases an item using a credit card, charges are accrued and the user is later billed by the credit card agency for that purchase amount. When the user is making a purchase transaction at a retail store using a credit card, a "fee is exchanged" between the user and the retail store and the user is later billed by a third party (i.e. the credit card company) for the charges.

Appellant further continues to argue in page 8 that, "payment for a video title in advance of its delivery – as set forth in the claim – is not taught by Kenner. The examiner respectfully disagrees.

Claim 1 merely recites

"*A method of internet distribution of video comprising:*
displaying to a consumer a listing of video titles;
Receiving a signal indicative of a video title selected by the user;
Exchanging a fee;
Watermarking the video on the fly;
Transmitting the video to the consumer;"

The scope of claim 1 does not stipulate that the payment for a video title be in advance of its delivery. Rather, claim 1 merely states that an exchanging of fee must occur, which is anticipated by Kenner for the reasons stated above.

Appellant traverses the Moskowitz reference in page 10 stating that, "a URL does not identify the website of an Internet site from which the selected video is provided nor does such a URL identify an Internet address to which the selected video is transmitted". The examiner respectfully disagrees. Moskowitz teaches that a watermark may contain a URL identifying the internet site of various content

providers. Moskowitz further teaches that watermark may contain seller's own account information, digital notary along with the notary's own signature. It is within the scope of Moskowitz as well as one of ordinary skill in the art at the time of the invention to include various information about the seller including an Internet site of the seller, which identifies the site from which the selected video is provided. Similarly, Moskowitz also teaches the step of watermarking authorized purchaser identification (see column 9, line 10). Furthermore, Kenner discloses that the delivery of a video is addressed to the Internet address of the requestor (i.e. the authorized purchaser; see Kenner: column 25, lines 23-26). Therefore, it is within the scope of Kenner, Moskowitz and one of ordinary skill in the art at the time of the invention to watermark the Internet address of the authorized purchaser.

Appellant traverses Fridrich references stating that, "Fridrich employed date data for a different purpose – a clue to the recipient to determine an image is authentic". The examiner has relied upon the Fridrich reference to teach the step of watermarking with date identifiers. Since the modified system watermarks data on the fly, with various identifiers of the actually purchase transaction (such as authorized purchaser, authorized seller, etc.), it would have been obvious to one of ordinary skill in the art at the time of the invention to use a purchase transaction date for watermarking the video on the fly.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Usha Raman
March 17, 2006

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